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Attorneys for Defendants Bruce McIntosh, Scott Patterson and Oregon Department of Fish and Wildlife

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MCKENZIE FLYFISHERS;
STEAMBOATERS,

Plaintiffs,

v.

BRUCE MCINTOSH, SCOTT PATTERSON,
OREGON DEPARTMENT OF FISH AND
WILDLIFE, JOHN EISENHauer, U.S.
ARMY CORPS OF ENGINEERS,

Defendants.

Case No. 6:13-cv-02125-TC

NOTICE TO COURT AND PLAINTIFFS OF
POTENTIAL CHANGE IN RELEASE
SCHEDULE

Counsel for the State Defendants previously agreed to provide Plaintiffs with 30-days notice before releasing spring Chinook hatchery smolts into the McKenzie River. ODFW's intent is to release about 360,000 hatchery spring Chinook smolts into the McKenzie River on or about February 1, 2015, 30 days from tomorrow, and the remaining approximately 265,000 smolts on or after March 16, 2015.

However, an emergency situation has developed over the last several days relating to water supply for the fish held at the McKenzie Hatchery that is outside the State defendants' control. If the situation deteriorates further, it is possible that State Defendants could face a choice to release fish from the hatchery or let the fish die. There are approximately 605,000 hatchery smolts on hand at the hatchery. We understand from the motions and records on file in this case that plaintiffs do not object to State Defendants' release of 360,000 smolts into the McKenzie River annually. We also understand that plaintiffs do object to State Defendants' release of the remainder.

It could become necessary for the State defendants to begin releasing hatchery spring Chinook sooner than they are planning to do so. Counsel for the State Defendants will provide Plaintiffs with notice if and when the emergency situation requires the release of the first 360,000 smolts into the McKenzie River. And if the situation further deteriorates such that the remaining smolts could die if they are not released, we commit to providing the Court and Plaintiffs with notice that will enable Plaintiffs to file and be heard on a motion for temporary restraining order before State Defendants release additional fish into the McKenzie River. At this time, however, counsel for the State Defendants understand that the risk of needing to release more than 360,000 smolts earlier than March 16, 2015, is low.

DATED December 31, 2014.

Respectfully submitted,

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s/ Carla A. Scott

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